

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:15-cr-10105-JDB-1

WILLIE RAY WOODS,

Defendant.

ORDER DETERMINING DEFENDANT HAS FAILED TO ESTABLISH GOOD CAUSE OR
EXCUSABLE NEGLECT WARRANTING AN EXTENSION OF APPEAL PERIOD

On January 12, 2023, this Court entered an order denying on the merits the pro se request of the Defendant, Willie Ray Woods, for compassionate release. (Docket Entry (“D.E.”) 117.) He filed a notice of appeal containing a certificate of service dated February 19, 2023, and postmarked February 21, 2023. (D.E. 118.) The Government argued before the appellate court that the notice was untimely. In an order entered May 23, 2023, the Sixth Circuit, finding that the timeliness issue had been properly raised and recognizing that the notice was filed after the fourteen-day deadline for filing such notices but within the thirty-day period for seeking an extension of time to do so under Rule 4(b) of the Federal Rules of Appellate Procedure, treated the late filing as a request for an extension of time to file the notice of appeal. (D.E. 122.) Under the rule, a district court may grant an extension on a finding of good cause or excusable neglect. Fed. R. App. P. 4(b)(4). The circuit court remanded the case to the undersigned for the limited purpose of deciding whether excusable neglect or good cause had been established.

Pursuant to the appellate court's instruction, this Court entered an order on May 23, 2023, directing Defendant to file his brief supporting an extension of the appeal period on or before June 23, 2023. (D.E. 123.) The Clerk forwarded a copy of the order to Woods. To date, no brief has

been filed by the Defendant and the time for such filing has expired. With nothing before it upon which it might base a determination of good cause or excusable neglect, the Court cannot make a finding therefor. *See United States v. Bartlebaugh*, No. 1:09-CR-251, 2010 WL 411324, at **1-3 (N.D. Ohio Jan. 28, 2010) (where the district court is without basis upon which to find excusable neglect or good cause, a motion to enlarge the time to file a notice of appeal cannot be granted). Thus, this Court concludes that an extension of time to file an appeal is not warranted.

The Clerk is DIRECTED to forward copies of this order to the Sixth Circuit Court of Appeals and to the Defendant at the prison facility address listed on the docket.

IT IS SO ORDERED this 1st day of August 2023.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE